

# Disciplinary Actions

## REPORTED FOR JUNE

NASD® has taken disciplinary actions against the following firms and individuals for violations of NASD rules; federal securities laws, rules, and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB). The information relating to matters contained in this *Notice* is current as of the end of May 2002.

### Firms Expelled, Individuals Sanctioned

**Northridge Capital Corporation (CRD #16467, Melville, New York) and Michael Scott Weiner (CRD #2214982, Registered Principal, Centereach, New York).** The firm was expelled from NASD membership and Weiner was barred from association with any NASD member in any capacity. The sanctions were based on findings that the respondents failed to respond to NASD requests for documents and Weiner failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #CLI010002)

**Stonebriar Securities, Inc. (CRD #19193, North Palm Beach, Florida) and Matthew James Fitzgibbon (CRD #4112304, Registered Principal, Columbus, Indiana).** The firm was expelled from NASD membership and Fitzgibbon was barred from association with any NASD member in any capacity. The sanctions were based on findings that the firm, acting through Fitzgibbon and other individuals, made material misrepresentations and omissions of fact when soliciting public customers to purchase a common stock including baseless price predictions, false statements, and inadequate risk disclosure. The findings also stated that the firm, acting through Fitzgibbon and others, recommended and sold shares of penny stocks to public customers without approving their accounts for trading in penny stocks. NASD also found that the firm executed transactions in the stock without obtaining information from the customers concerning their investment objectives and investment experience, without having the customers verify their investment objectives and investment experience, and obtaining written agreements from the customers prior to the transactions setting forth the identity and quantity of the stock to be purchased. In addition, NASD found that Fitzgibbon guaranteed public customers against loss, made unsuitable recommendations to public customers, and failed to follow the instructions of public customers. (NASD Case #C07010072)

### Firms and Individuals Fined

**Americal Securities, Inc., (CRD #28096, San Francisco, California) and Michael Kit Yong Yap (CRD #2124707, Registered Principal, San Francisco, California)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$55,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the

entry of findings that the firm, acting through Yap, permitted individuals to act as representatives of the firm without being registered as representatives with NASD. (NASD Case #C01020007)

**E.A. Moos & Co., L.P. (CRD #7606, Summit, New Jersey) and Edward Arnold Moos (CRD #339448, Registered Principal, Short Hills, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$10,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Moos, permitted individuals to maintain their securities licenses with the firm although they were not actively involved in the firm's investment banking or securities business. (NASD Case #C9B020033)

**New England Securities Corporation (CRD #615, Boston, Massachusetts) and Stephen Francis McKinnon (CRD #2238383, Registered Principal, Hanson, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$50,000, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through McKinnon, permitted registered individuals to continue to perform duties as registered individuals at a time their registration status with NASD was inactive due to their failure to complete the Regulatory Element of NASD's Continuing Education Rule. (NASD Case #C11020020)

**Schoff & Baxter, Inc., (CRD #3290, Burlington, Iowa) and Harry Wickham Baxter (CRD #1194108, Registered Principal, Los Angeles, California)** submitted a Letter of Acceptance, Waiver, and Consent in which they were censured and fined \$150,505.90, jointly and severally. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that the firm, acting through Baxter, failed to establish and maintain a system reasonably designed to supervise the activities of an individual to achieve his compliance with certain NASD rules. The findings also stated that the firm, acting through Baxter, failed to adopt and implement adequate written procedures reasonably designed to carry out the supervision of the firm's business; in particular, to detect and prevent private securities transactions and unsuitable transactions. (NASD Case #C02020020)

## Firms Fined

**ABN Amro Securities, LLC (CRD #6540, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$23,500, and ordered to pay \$183.75, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of

findings that it failed to timely report its short interest positions to NASD and submitted to NASD its short interest position report, which included an inaccurate short position. The findings also stated that the firm was a registered market maker in securities and failed to execute orders upon presentment at the firm's published bid or published offer in an amount up to its published quotation size and thereby failed to honor its published quotation. In addition, NASD found that the firm failed to use reasonable diligence to ascertain the best inter-dealer market, failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions, and failed to execute orders fully and promptly. Furthermore, the findings stated that the firm executed customer transactions in Over The Counter Bulletin Board (OTCBB) and/or Over The Counter (OTC) equity securities and failed to document quotations from broker/dealers, executed short sale orders in Nasdaq securities, and failed to maintain a written record of the affirmative determination made for such orders.

NASD also found that the firm incorrectly designated as "PRP" through the Automated Confirmation Transaction Service<sup>SM</sup> (ACT<sup>SM</sup>) last sale reports of transactions in Nasdaq National Market<sup>®</sup> (NNM<sup>®</sup>) securities; failed to report to ACT the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt, or cross for transactions in eligible securities; and failed to report to ACT the correct symbol indicating whether the firm executed transactions in eligible securities in a principal or agency capacity. The findings also determined that the firm failed to display immediately customer limit orders in Nasdaq securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer for each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security. (NASD Case #CMS020062)

**ABN Amro Incorporated (CRD #15776, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$76,000, and required to pay \$784.38, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in transactions for or with a customer, it failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such a market so that the resultant price to its customers was as favorable as possible under prevailing market conditions and failed to execute orders fully and promptly. NASD also found that the firm executed short sale orders in certain securities, failed to maintain a written record of the affirmative determination made for such orders, and executed short sale transactions and failed to report these transactions to ACT with a short sale modifier. The findings

stated that the firm failed to contact and obtain quotations from dealers to determine the best inter-dealer market in non-Nasdaq securities transactions. The firm also failed to display immediately customer limit orders in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security.

Furthermore, NASD found that the firm, as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market makers whose quotations would be locked or crossed, entered bid or ask quotations in the Nasdaq Stock Market, Inc., which caused a locked or crossed market condition to occur in each instance. In addition, the findings stated that the firm failed to preserve for a period of not less than three years, the first two in a readily accessible place, the memorandum of brokerage orders and failed to show the time of entry, time of execution, and correct price of execution on the memorandum of brokerage orders. Moreover, NASD found that the firm failed to execute orders upon presentment and thereby failed to honor its published quotation. The findings also stated that the firm, as a market maker in the securities, caused a locked/crossed market condition prior to the market opening by entering a bid (ask) quotation that locked/crossed another market maker's quotations without immediately thereafter sending through SelectNet<sup>®</sup> to the market maker(s) whose quote(s) it locked or crossed, a Trade-or-Move Message(s) that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. NASD also determined that the firm was a party to a locked or crossed market condition prior to the market opening and received a Trade-or-Move Message through SelectNet, and within 30 seconds of the receiving message, failed to fill the incoming Trade-or-Move Message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market.

In addition, NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to the applicable securities laws and regulations concerning best execution, the Order Audit Trail System<sup>SM</sup> (OATS<sup>SM</sup>), the One Percent Rule, SEC Rule 10A-1, and firm quote compliance. Specifically, the firm's supervisory system did not include written supervisory procedures providing for the identification of the person responsible at the firm to ensure compliance with the applicable rules; a statement of the steps that such person should take to ensure compliance; a statement as to how often such person should take such steps; and a statement as to how enforcement of such written supervisory procedures should be documented at the firm. (NASD Case #CMS020058)

**Aegis Capital Corporation (CRD #15007, Valley Stream, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$35,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, without making reasonable efforts to avoid a locked or crossed market by executing transactions with all market participants whose quotations would be locked or crossed, it entered a bid or ask quotation in the Nasdaq Stock Market, Inc., which caused a locked or crossed market condition to occur in each instance. NASD also found that the firm, as a market maker in securities, was a party to a locked or crossed market condition prior to the market opening; received a Trade-or-Move message in each instance through SelectNet; and within 30 seconds of receiving such messages, failed to fill the incoming trade-or-move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market. (NASD Case #CMS020085)

**Bear, Stearns & Company, Inc. (CRD #79, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, it caused a locked/crossed market condition prior to the market opening by entering a bid (ask) quotation that locked/crossed another market maker's quotations without immediately thereafter sending through SelectNet, in each instance to the market maker(s) whose quote(s) it locked or crossed, a Trade-or-Move message that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. (NASD Case #CMS020068)

**Broadway Trading, LLC (CRD #42429, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it executed short sale transactions in a security at or below the current inside bid when the current inside bid was below the preceding inside bid in the security. NASD also found that the firm executed short sale transactions and failed to report each of these transactions to ACT with a short sale modifier. In addition, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning short sales. (NASD Case #CMS020054)

**Credit Suisse First Boston Corporation (CRD #816, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that as a registered market maker in securities, it failed to execute orders

presented to the firm at its published bid or published offer in an amount up to its published quotation size and thereby failed to honor its published quotation. (NASD Case #CMS020083)

**Crowell, Weedon & Co. (CRD #193, Los Angeles, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately public customer limit orders in Nasdaq securities in its public quotation when each such order was at a price that would have improved the firm's bid or offer in each such security, or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security and the size of the order represented more than a de minimis change in relation to the size associated with the firm's bid or offer in each such security. (NASD Case #CMS020071)

**Deutsche Banc Alex. Brown, Inc. (CRD #2525, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a market maker in securities, it caused a locked/crossed market condition prior to the market opening by entering a bid (ask) quotation that locked/crossed another market maker's quotations without immediately thereafter sending through SelectNet, to the market maker(s) whose quote(s) it locked or crossed, a Trade-or-Move message that was at the receiving market maker's quoted price and whose aggregate size was at least 5,000 shares. (NASD Case #CMS020072)

**Fahnestock & Co., Inc. (CRD#249, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was fined \$5,000 and required to pay \$5,906.25, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under prevailing market conditions. (NASD Case #CMS020059)

**Franklin Ross, Inc. (CRD #43610, Coral Springs, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$10,500, and fined \$4,000, jointly and severally. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that representatives of the firm engaged in prohibited general solicitation in connection with private placement offerings. The findings also stated that the firm failed to establish, maintain, and enforce adequate written supervisory procedures reasonably designed to achieve compliance with Section 5 of the Securities Act of 1933. (NASD Case #C07020022)

**Josephthal & Co., Inc. (CRD #3227, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$21,500, and required to pay \$62.50, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, as a registered market maker in securities, an order was presented to the firm at its published bid or published offer in an amount up to its published quotation size, and failed to execute the orders upon presentment and thereby failed to honor its published quotation. NASD found that the firm failed to execute orders fully and promptly. NASD also found that the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. The findings also stated that the firm incorrectly designated as "PRP" through ACT last sale reports of transactions in Nasdaq National Market securities, and failed to show the correct time of entry on the memorandum of brokerage orders. In addition, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with respect to applicable securities laws and regulations concerning short sales and Securities and Exchange Commission (SEC) and NASD firm quote rules. (NASD Case #CMS020084)

**Major League Securities, LLC (CRD #32211, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$225,000, and required to revise its written supervisory procedures concerning Small Order Execution System (SOES). Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, through an executive officer of the firm, it personally loaned \$19.35 million to persons and entities for the express purpose of opening securities accounts at the firm. NASD found that the executive officer funded these loans with officer loans from an affiliated member firm, of which he was also an executive officer. NASD also found that each loan recipient was required to use the complete proceeds of the loan to open a firm securities account, to execute a promissory note promising to repay the loan from the officer, to pledge the assets in its securities account as collateral for the loan, and to agree to pay monthly interest for the loan through monthly withdrawals from such account. The officer's designee monitored the equity in such accounts to ensure that the loan recipients properly handled the funds therein.

While the loan recipients made their own trading decisions as to which stocks to buy and sell, they were expected to adhere to the firm's proprietary trading strategies. The findings also included that, after the loan recipients received the loan proceeds, they immediately opened securities accounts at the firm. The loan recipients executed transactions in their firm securities account through, among other systems, the Nasdaq Stock Market's SOES. During the review period, SOES was only available to member firms to execute agency or riskless principal

orders on behalf of public customers. By virtue of the loan arrangements and controls, none of the loan recipients was a public customer for the purpose of SOES and, therefore, the use of SOES by the loan recipients during the review period violated the SOES rules. In addition, the NASD determined that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the use of SOES. (NASD Case #CMS020086)

**National Financial Services LLC (CRD #13041, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$70,000, and instructed to revise its written supervisory procedures with respect to the applicable securities laws and regulations concerning OATS reporting rules. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it transmitted new order reports to OATS on behalf of other member firms that omitted Account Type Codes. NASD also found that the firm transmitted cancelled order reports to OATS on its own behalf and on behalf of other member firms that contained inaccurate times. In addition, the findings stated that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning the OATS reporting rules. (NASD Case #CMS020075)

**Quick & Reilly, Inc., (CRD #11217, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$50,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to have and maintain adequate supervisory procedures with respect to the detection and prevention of mutual fund sales practice abuses despite the fact that the firm was issued a Letter of Caution by NASD for failing to have such procedures. (NASD Case #C02020018)

**Spear, Leeds & Kellogg, L.P. (CRD #3466, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$70,000, and instructed to revise its written supervisory procedures concerning OATS. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to transmit to OATS reports containing each applicable item of order information identified in NASD Marketplace Rule 6954. NASD also found that the firm transmitted to OATS New Order Reports containing inaccurate data as to method or receipt and account type. In addition, the findings stated that the firm failed to transmit to OATS Route Reports for orders routed to other members. Furthermore, NASD found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws and regulations concerning OATS. (NASD Case #CMS020074)

**Sutro & Co., Incorporated (CRD #801, San Francisco, California)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$25,000, and required to pay \$857.75, plus interest, in restitution to public customers. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed to display immediately customer limit orders in Nasdaq securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer in such security, and the size of the order represented more than a de minimis change in relation to the size associated with its bid or offer in each such security. NASD also found that the firm failed to use reasonable diligence to ascertain the best inter-dealer market, and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. (NASD Case #CMS020064)

**Utendahl Capital Partners, L.P. (CRD #30115, New York, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured and fined \$12,000. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it failed, prior to the execution of transactions with two hot issues, to obtain proper documentation as to the beneficial owners for corporate accounts or investment partnership accounts. The findings also stated that the firm failed to comply with the Firm Element of NASD's Continuing Education Requirements, in that the firm did not have any documentation evidencing that it implemented its training plan. NASD also found that the firm failed to accurately time-stamp order tickets, failed to indicate whether the order was "long" or "short" on order tickets, failed to record the contra party to transactions, and failed to record a time of order entry or of order execution with respect to "programmed" transactions. (NASD Case #C10020039)

**WMA Securities, Inc. (CRD #32625, Duluth, Georgia)** submitted a Letter of Acceptance, Waiver, and Consent in which the firm was censured, fined \$200,000, and required to pre-file with NASD's Advertising Regulation Department all advertisements and sales literature (ASL) 15 days prior to their use for six months from the date of acceptance of this AWC. Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that it engaged in widespread breaches of NASD's Advertising Regulations that included failures to evidence supervisory review and approval of ASL; failures to file ASL with the NASD; the use of ASL omitting material facts; and the use of ASL containing exaggerations, unwarranted, and misleading statements. The findings also stated that the firm's Web site was not reviewed or approved by a registered principal, and that the firm did not file timely, as required, portions of the Web site that pertained to investment company products with NASD. In addition, the Web site failed to make the relationship between a non-member entity and

the firm clear, and created confusion as to which entity offered the securities products discussed in the Web site. Furthermore, NASD found that the firm failed to develop systems and procedures, including written supervisory procedures, reasonably designed to achieve compliance with NASD rules regarding review of ASL and electronic communications by a registered principal. Moreover, NASD found that the firm failed to establish procedures reasonably designed to prevent unlicensed persons from making recommendations or discussing products with potential customers. (NASD Case #CAF020014)

## Individuals Barred or Suspended

**Anthony Philip Accardo (CRD #643, Registered Representative, Chalmette, Louisiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$80,000 and suspended from association with any NASD member in any capacity for two years. The fine must be paid before Accardo reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Accardo consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to his member firm.

Accardo's suspension began May 20, 2002, and will conclude at the close of business May 19, 2004. (NASD Case #C05020016)

**Savas Zafer Alkoc (CRD #2019226, Registered Representative, Lakewood, New Jersey)** was fined \$15,000 and suspended from association with any NASD member in any capacity for six months for settling a customer complaint away from his member firm, and barred from association with any NASD member in any capacity for misusing customer funds. The fine shall be due and payable when and if Alkoc seeks to reenter the securities industry. The sanctions are based on findings that Alkoc settled the complaint of a public customer away from his member firm without the firm's knowledge. The findings also stated that Alkoc received \$65,261.98 from public customers to invest in stocks and bonds, deposited some of the funds in his personal securities account at his member firm, and used some of the funds to settle a customer complaint without the authorization of the customers.

Alkoc's bar became effective April 29, 2002. (NASD Case #C9A010043)

**Edward Don Angrisani (CRD #1463251, Registered Principal, Dayton, New Jersey)** submitted an Offer of Settlement in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for two years. Without admitting or denying the allegations, Angrisani consented to the described sanctions and to the entry of findings that he engaged in private securities transactions

without giving prior written notification to, or receiving written acknowledgement and/or permission from, his member firm to participate in the transactions.

Angrisani's suspension began May 20, 2002, and will conclude at the close of business May 19, 2004. (NASD Case #CAF010026)

**Carl John Barone, Sr. (CRD #1078295, Registered Representative, Clementon, New Jersey)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for three months. In light of the financial status of Barone, no monetary sanctions have been imposed. Without admitting or denying the allegations, Barone consented to the described sanction and to the entry of findings that he engaged in private securities transactions outside the normal course or scope of his association with his member firm and failed to provide prior written notification of the transactions to his member firm.

Barone's suspension began May 6, 2002, and will conclude at the close of business August 7, 2002. (NASD Case #C9A020016)

**Mario Michael Bilotti (CRD #2834416, Registered Representative, Kenosha, Wisconsin)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Bilotti forged public customers' signatures on documents and failed to respond to NASD requests for information. (NASD Case #C8A010092)

**Ronald Alan Brodis (CRD #31232, Registered Principal, Merrick, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for two years. In light of the financial status of Brodis, no monetary sanctions have been imposed. Without admitting or denying the allegations, Brodis consented to the described sanction and to the entry of findings that he made material and false representations and price predictions to public customers regarding the purchase of warrants without any reasonable basis. The findings also stated that Brodis settled, and attempted to settle, customer complaints without informing and obtaining authorization from his member firm. NASD also found that Brodis signed and provided a public customer with a document that he knew, or should have known, contained inaccurate information concerning the cash and securities positions in the customer's account. In addition, NASD found that Brodis effected purchases of warrants in the account of a public customer based upon orders from a third party—which were based on the customer's verbal authorization—without having received any written authorization from the customer for the third party to act on his behalf.

Brodis' suspension began May 20, 2002, and will conclude at the close of business May 19, 2004. (NASD Case #C10020040)

**Raquel Brookins (CRD #4242793, Associated Person, Miami, Florida)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Brookins submitted a materially false Form U-4 to a member firm. (NASD Case #C07010085)

**Marsha Lynn Brown (CRD #3029559, Registered Representative, Huntington, West Virginia)** submitted a Letter of Acceptance, Waiver, and Consent in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Brown consented to the described sanction and to the entry of findings that she caused \$800 to be borrowed against a home equity line of credit that public customers maintained with the bank at which she was employed and used the funds for her own benefit. The findings also stated that Brown made withdrawals totaling approximately \$1,845 from a public customer's account at the bank, causing \$800 to be applied to repay the funds withdrawn from the home equity line of credit of other customers and using the balance for her own benefit. Brown also caused the customer's account address to be changed so she would not receive statements reflecting the unauthorized withdrawals. In addition, NASD found that Brown withdrew \$1,050 from lines of credit from the accounts of public customers and used the funds for her own benefit. (NASD Case #C9A020020)

**William Pang Chien (CRD #2251029, Registered Principal, Plantation, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, jointly and severally, and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Chien consented to the described sanctions and to the entry of findings that a member firm, acting through Chien, failed to respond timely to NASD requests for information.

Chien's suspension began June 3, 2002, and concluded at the close of business June 14, 2002. (NASD Case #C07020027)

**Kevin Berry Dermody (CRD #2274661, Registered Representative, Naperville, Illinois)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Dermody consented to the described sanction and to the entry of findings that he engaged in a scheme to defraud, made untrue statements of material fact, omitted to state material facts, and engaged in a course of business that operated as a fraud or deceit in connection with the purchase and sale of securities. The findings stated that Dermody participated in private securities transactions without prior written notice to, or approval from, his member firm, and made guarantees against losses to public customers. The findings also stated that Dermody failed to respond to an NASD request for information. (NASD Case #C05020001)

**Joseph Edward Devlin (CRD #2889976, Registered Representative, Westfield, Indiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Devlin consented to the described sanction and to the entry of finding that he failed to respond to NASD requests for information. (NASD Case #C8A020018)

**Damien Robert Douglas (CRD #2255355, Registered Representative, Queens, New York)** was barred from association with any NASD member in any capacity and ordered to pay \$29,886 in restitution to public customers. The National Adjudicatory Council (NAC) imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Douglas engaged in unauthorized transactions in the accounts of public customers. The findings also stated that Douglas provided false, misleading, or inaccurate information to a public customer by failing to inform the customer that his purchase of initial public offering units was canceled without his authorization. (NASD Case #C10000026)

**Theodore Thomas Eastwick (CRD #1571559, Registered Principal, New York, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Eastwick consented to the described sanction and the entry of findings that he prepared a letter purportedly from a public customer that directed the liquidation of all shares in the customer's account held at Eastwick's member firm, and effected, or caused to be effected, the forgery of the deceased customer's signature on the document. The findings also stated that Eastwick effected, or caused to be effected, the forgery of the customer's signature on a check-writing authorization form and specimen signature card for the account. In addition, the findings stated that Eastwick forged the customer's signature on checks totaling approximately \$7,000 drawn against the customer's account, and converted approximately \$7,000 to his own use and benefit without the knowledge, authorization, or consent of the customer. (NASD Case #C10010090)

**Jason Todd Ewing (CRD #4024596, Registered Representative, Scottsdale, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Ewing consented to the described sanction and to the entry of finding that he misappropriated public customers' funds by depositing \$4,000 belonging to the customers into his personal securities account at his member firm to cover a debit balance in his account. (NASD Case #C3A020018)

**Tony Lee Fessler (CRD #2196008, Registered Representative, Pleasant Hill, Ohio)** submitted a Letter of Acceptance, Waiver,



and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Fessler reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Fessler consented to the described sanctions and to the entry of findings that he engaged in private securities transactions away from his member firm for compensation, failed to provide his firm with detailed written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions.

Fessler's suspension began June 3, 2002, and will conclude at the close of business December 2, 2002. (NASD Case #C8B020007)

**Kenneth Albert Friedman, Jr. (CRD #2123609, Registered Representative, Jacksonville, Florida)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Friedman consented to the described sanctions and to the entry of findings that he signed a client's name to an IRA brokerage account application and custodial transfer forms for mutual fund positions without the authorization of the client.

Friedman's suspension began May 20, 2002, and concluded at the close of business June 3, 2002. (NASD Case #C07020024)

**Dennis Michael Fye (CRD #1016532, Registered Representative, Oswego, New York)** submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for three months. Without admitting or denying the allegations, Fye consented to the described sanction and to the entry of findings that he participated in the sale of debenture notes to a public customer without providing prior written notice to his member firm detailing the transactions and his role therein.

Fye's suspension began June 3, 2002, and will conclude at the close of business September 2, 2002. (NASD Case #C11980008)

**Joseph Gantcharevitch (CRD #858617, Registered Representative, Whittier, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured, fined \$3,614, suspended from association with any NASD member in any capacity for 10 days, and required to pay \$19,554 in restitution to a public customer. Without admitting or denying the allegations, Gantcharevitch consented to the described sanctions and to the entry of findings that he recommended unsuitable mutual fund transactions to a public customer without a reasonable basis to believe that the transactions were suitable for the customer in light of the nature of the transactions and the facts disclosed by the customer regarding her other securities holdings, financial situation, and needs.

Gantcharevitch's suspension began June 3, 2002, and concluded at the close of business June 12, 2002. (NASD Case #C02020017)

**Richard Scott Gregory (CRD #2837455, Registered Representative, Dallas, Texas)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 30 business days. Without admitting or denying the allegations, Gregory consented to the described sanctions and to the entry of findings that he executed a purchase transaction in the account of a public customer without the customer's prior knowledge or authorization.

Gregory's suspension began June 3, 2002, and will conclude at the close of business July 15, 2002. (NASD Case #C06010045)

**John Peter Guarnieri (CRD #1147886, Registered Representative, Warren, Ohio)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for 30 days, and ordered to disgorge \$2,300, plus interest, in commissions received to public customers. Without admitting or denying the allegations, Guarnieri consented to the described sanctions and to the entry of findings that he engaged in private securities transactions away from his member firm and failed to provide his firm with detailed written notice of the transactions and his role therein, and failed to receive permission from the firm to engage in the transactions.

Guarnieri's suspension began May 20, 2002, and will conclude at the close of business June 18, 2002. (NASD Case #C8B020008)

**Carla Joy Halverson (CRD #859074, Registered Representative, Littleton, Colorado)** submitted an Offer of Settlement in which she was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Halverson consented to the described sanction and to the entry of findings that she engaged in unauthorized transactions in the accounts of public customers without their prior authorization. (NASD Case #C3A020007)

**Lewis Douglas Hanchell (CRD #3025649, Registered Representative, Miami, Florida)** was fined \$10,000 and suspended from association with any NASD member in any capacity for six months for unauthorized trading, and barred from association with any NASD member in any capacity for failure to appear. The fine shall be due and payable upon Hanchell's reentry into the securities business. The sanctions are based on findings that Hanchell effected unauthorized trades in the account of a public customer and failed to respond to NASD requests to appear for an on-the-record interview.

Hanchell's bar became effective April 23, 2002. (NASD Case #C07010078)



**Roger Allen Hanson (CRD #236512, Registered Representative, Milwaukee, Wisconsin)** was fined \$27,050 and suspended from association with any NASD member in any capacity for 180 days. The NAC imposed the sanctions following review of an OHO decision. The sanctions were based on findings that Hanson engaged in private securities transactions, for compensation, without providing prior written notice to, and receiving approval from, his member firm.

Hanson's suspension began May 20, 2002, and will conclude on November 16, 2002. (NASD Case #C8A000059)

**Andrew Nicholas Hennen (CRD #2554862, Registered Representative, Portland, Oregon)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$15,000 and suspended from association with any NASD member in any capacity for 40 days. The fine must be paid before Hennen reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Hennen consented to the described sanctions and to the entry of findings that he exercised discretionary power in the accounts of public customers without obtaining prior written authorization from the customers and without the acceptance in writing by his member firm of the accounts as discretionary. The findings also stated that Hennen delivered a letter to public customers stating that the value of their account at his member firm would be equal to a certain amount, and that he would personally compensate them for any deficiency in that value.

Hennen's suspension began June 3, 2002, and will conclude at the close of business July 12, 2002. (NASD Case #C3B020010)

**Jeffrey Booth Hodde (CRD #247308, Registered Principal, Cedar Grove, New Jersey)** was barred from association with any NASD member in any capacity. The NAC imposed the sanctions following appeal of an OHO decision. The sanction was based on findings that Hodde effected an unauthorized transaction in the account of a public customer and failed to respond to NASD requests for information. (NASD Case #C10010005)

**Lucian Deforest Hodgman (CRD #1546902, Registered Representative, Kensington, New Hampshire)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for 10 days. Without admitting or denying the allegations, Hodgman consented to the described sanctions and to the entry of findings that he effected transactions in a public customer's account without the customer's prior knowledge, authorization, or consent.

Hodgman's suspension began June 3, 2002, and concluded at the close of business June 12, 2002. (NASD Case #C11020019)

**Flexman Henry Johnson (CRD #2763639, Registered Representative, Philadelphia, Pennsylvania)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Johnson consented to the described sanction and to the entry of findings that he failed to respond to NASD requests for information. (NASD Case #C9A010040)

**Stephen Michael Johnson (CRD #721408, Registered Representative, Mesa, Arizona)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 18 months. In light of the financial status of Johnson, no monetary sanction has been imposed. Without admitting or denying the allegations, Johnson consented to the described sanction and to the entry of findings that he participated in private securities transactions without giving prior written notice to his member firm. NASD also found that Johnson engaged in outside business activities that were outside the scope of his employment relationship with his member firm without giving prompt written notice to his member firm.

Johnson's suspension began June 3, 2002, and will conclude at the close of business December 2, 2003. (NASD Case #C3A020021)

**Edward A. Kaminski (CRD #3011212, Registered Representative, Blue Springs, Missouri)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000 and suspended from association with any NASD member in any capacity for six months. The fine must be paid before Kaminski reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Kaminski consented to the described sanctions and to the entry of findings that he affixed customers' signatures to letters of intent to expedite a prior request for transfer of variable annuity accounts, without their knowledge and consent.

Kaminski's suspension began May 20, 2002, and will conclude at the close of business November 19, 2002. (NASD Case #C04020011)

**Norman Michael Lindo (CRD #2287832, Registered Representative, Springfield, Massachusetts)** was barred from association with any NASD member in any capacity. The sanction was based on findings that Lindo misused a credit card provided to him by a member firm, and that he failed to respond to NASD requests for information. (NASD Case #C11010041)

**Cameron D. Littmon (CRD #4242790, Registered Representative, Hartford, Connecticut)** was fined \$2,500 and suspended from association with any NASD member in any capacity for 30 business days for willfully failing to disclose a material fact, and barred from association with any NASD member in any capacity for failing to respond. The fine must

be paid before Littmon reassociates with any NASD member or before requesting relief from any statutory disqualification. The sanctions were based on findings that Littmon willfully failed to disclose required information on his Form U-4 and failed to respond to NASD requests for information.

Littmon's bar became effective April 1, 2002. (NASD Case #C11020003)

**Timothy Doyle Lucas (CRD #1476874, Registered Principal, Valrico, Florida)** was fined \$20,000 and barred from association with any NASD member in any capacity. The sanctions were based on findings that Lucas failed to perform net capital calculations for his member firm, performed net capital computations that materially overstated his firm's net capital, and failed to timely file an annual audited financial report for the firm. The findings also stated that Lucas failed to give the SEC and NASD notice of his firm's net capital deficiency. (NASD Case #C07010080)

**Carl Bernard Mahoney (CRD #2963667, Registered Representative, Northfield, Ohio)** was barred from association with any NASD member in any capacity and ordered to pay \$10,000, plus interest, in restitution to a public customer. The sanctions were based on findings that Mahoney received \$10,000 from a public customer to invest in an annuity, but failed to use the funds to purchase the annuity, failed to notify the customer that the funds were invested in any manner, and failed to repay any of the funds he received for investment. The findings also stated that Mahoney failed to respond to NASD requests for information. (NASD Case #C8B010024)

**Robert Joseph Martinez, Jr. (CRD #4150756, Registered Representative, Albuquerque, New Mexico)** submitted an Offer of Settlement in which he was fined \$7,000 and suspended from association with any NASD member in any capacity for one year. Without admitting or denying the allegations, Martinez consented to the described sanctions and to the entry of findings that he willfully failed to disclose material information on his Form U-4.

Martinez's suspension began June 3, 2002, and will conclude at the close of business June 2, 2003. (NASD Case #C3A020001)

**Andrew Thomas McNamara (CRD #2768804, Registered Representative, Charlotte, North Carolina)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, McNamara consented to the described sanction and to the entry of findings that he converted funds to his own use from family members' accounts at his member firm without the authorization of the account holders. The findings also stated that McNamara obtained the funds by preparing fictitious letters of authorization to transfer funds from the target accounts to accounts under his ownership or control, and forged the account holder's signature

on those false letters of authorization. (NASD Case #C07020023)

**Philip William Merrill (CRD #2436444, Registered Representative, Goodyear, Arizona)** submitted an Offer of Settlement in which he was fined \$5,363, including disgorgement of commissions received of \$363, and suspended from association with any NASD member in any capacity for 10 business days. Without admitting or denying the allegations, Merrill consented to the described sanctions and to the entry of findings that he entered unauthorized transactions in a public customer's accounts.

Merrill's suspension began June 3, 2002, and concluded at the close of business June 14, 2002. (NASD Case #C3A020002)

**Alfred Arthur Napolitano (CRD #1125072, Registered Principal, St. James, New York)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any NASD member in any capacity for one year. The fine must be paid before Napolitano reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Napolitano consented to the described sanctions and to the entry of findings that he failed to respond timely to an NASD request to appear for an on-the-record interview.

Napolitano's suspension began May 20, 2002, and will conclude at the close of business May 19, 2003. (NASD Case #C10010149)

**Todd Allen Nye (CRD #1891536, Registered Principal, Chesterfield, Missouri)** submitted an Offer of Settlement in which he was fined \$5,000, suspended from association with any NASD member in any capacity for six months, and required to disgorge \$106,516 in commissions earned. Without admitting or denying the allegations, Nye consented to the described sanctions and to the entry of findings that he participated in private securities transactions without providing prior written notice to, and receiving approval and/or acknowledgement from, his member firm.

Nye's suspension began May 6, 2002, and will conclude at the close of business November 5, 2002. (NASD Case #C04010031)

**Timothy Joseph O'Hare (CRD #2350627, Registered Representative, Long Beach, New York)** submitted an Offer of Settlement in which he was fined \$7,500, including disgorgement of \$1,500 in commissions, and suspended from association with any NASD member in any capacity for 12 months. The fine must be paid before O'Hare reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, O'Hare consented to the

described sanctions and to the entry of findings that he effected transactions in the accounts of public customers without the prior knowledge, authorization, or consent of the customers.

O'Hare's suspension began May 20, 2002, and will conclude at the close of business May 19, 2003. (NASD Case #C10020004)

**George William Perkins, II (CRD #360247, Registered Representative, Lynnfield, Massachusetts)** submitted a Letter of Acceptance, Waiver, and Consent in which he was censured and suspended from association with any NASD member in any capacity for 30 days. Without admitting or denying the allegations, Perkins consented to the described sanctions and to the entry of finding that he participated in private securities transactions, for compensation, without providing prior written notice to, or obtaining approval from, his member firm.

Perkins' suspension began June 3, 2002, and will conclude at the close of business July 2, 2002. (NASD Case #C8A020021)

**Anthony Joe Radicone (CRD #2461173, Registered Representative, Staten Island, New York)** submitted an Offer of Settlement in which he was barred from association with any NASD member in any capacity and ordered to pay \$8,210.52, plus interest, in restitution to public customers. Satisfactory proof of payment of restitution, with interest, is required before Radicone reassociates with any NASD member or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Radicone consented to the described sanctions and to the entry of findings that, acting intentionally or recklessly, he made material, misleading, and false representations to a public customer that were without a reasonable basis regarding an initial public offering (IPO), and failed to disclose to public customers any material information regarding the IPO issuer's financial condition, operating history, investment risks, or the speculative nature of an investment in the company. The findings also stated that, in regard to the IPO, Radicone made baseless price predictions, required a public customer to commit to purchase an equal amount of units in the secondary market in order to receive an allocation of units being offered in the IPO, and failed to execute customer transactions. NASD also found that Radicone effected transactions in the accounts of public customers without the customers' prior knowledge, authorization, or consent. In addition, the findings stated that Radicone performed duties as a registered person while his registration status was inactive due to his failure to timely complete the Regulatory Element of NASD's Continuing Education Rule. (NASD Case #C10010004)

**Joseph Gerard Riley (CRD #714478, Registered Representative, Federal Way, Washington)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Riley consented to the described sanction and to the entry of findings that he

engaged in private securities transactions by participating in the sale of promissory notes and failed to provide written notice to his member firms describing in detail the proposed transactions, his proposed role therein, and failed to state whether he had received, or might receive, selling compensation in connection with the transactions. (NASD Case #C3B020007)

**Jack Rutledge (CRD #2783403, Registered Representative, West Monroe, Louisiana)** submitted a Letter of Acceptance, Waiver, and Consent in which he was fined \$5,000, suspended from association with any NASD member in any capacity for four months, and required to requalify as a general securities representative by taking and passing the Series 7 exam prior to acting again in that capacity. If Rutledge fails to complete and pass the appropriate examination, he shall be suspended from acting in the capacity of general securities representative until he completes and passes such exam. The fine must be paid before Rutledge reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, Rutledge consented to the described sanctions and to the entry of findings that he settled a customer complaint without informing and obtaining authorization from his member firm. The findings also stated that Rutledge, without the knowledge or consent of a public customer, signed the customer's name to a letter of authorization to effect a transfer to Rutledge's account of funds previously advanced by him to the customer.

Rutledge's suspension began May 20, 2002, and will conclude at the close of business September 19, 2002. (NASD Case #C05020014)

**Thomas Marion Scotton (CRD #1160247, Registered Representative, Willingboro, New Jersey)** submitted an Offer of Settlement in which he was suspended from association with any NASD member in any capacity for 18 months. In light of the financial status of Scotton, no monetary sanctions have been imposed. Without admitting or denying the allegations, Scotton consented to the described sanction and to the entry of findings that he effected the opening of an individual account at his member firm for a public customer and later opened a joint account at his member firm, with the customer and himself serving as joint account holders with rights of survivorship, without discussing the opening of the joint account with anyone other than the customer. The findings also stated that Scotton effected the transfer of holdings valued at \$49,086.77 from the individual account to the joint account, acquiring a direct financial interest in the holdings. The findings also stated that Scotton facilitated his designation as the beneficiary of an annuity contract, for which the public customer was the owner and annuitant, by completing a change of beneficiary form without discussing his designation as beneficiary with anyone other than the customer. In addition, the findings stated that Scotton shared directly or indirectly in the profits or losses of the joint account without contributing any money to the account or being liable for any losses in the account.

Scotton's suspension began May 20, 2002, and will conclude at the close of business November 19, 2003. (NASD Case #C10010156)

**James Michael Spaulding (CRD #1277538, Registered Representative, Huntland, Tennessee) and Donald Carl Dickson (CRD #67486, Registered Principal, Huntsville, Alabama)** submitted a Letter of Acceptance, Waiver, and Consent in which Spaulding was fined \$15,000 and suspended from association with any NASD member in any capacity for 10 days. Dickson was fined \$5,000 and suspended from association with any NASD member in any principal capacity for 10 days. The fine must be paid before Dickson reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. Without admitting or denying the allegations, the respondents consented to the described sanctions and to the entry of findings that Spaulding recommended and effected sales of class B mutual fund shares in the aggregate amount of \$3,000,000 to a public customer without having reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customer on the basis of his financial situation and needs. The findings also stated that Dickson, in connection with Spaulding's unsuitable transactions, failed and neglected to adequately supervise Spaulding in that he neglected to follow his member firm's written procedure requiring branch managers to obtain written approval from a customer when aggregate investments in mutual funds of more than \$1 million are not invested in class A shares.

Spaulding's suspension began May 20, 2002, and concluded at the close of business May 29, 2002. Dickson's suspension began May 20, 2002, and concluded at the close of business May 30, 2002. (NASD Case #C05020015)

**Dennis Jay Sturm (CRD #1407180, Registered Principal, Coral Springs, Florida)** was barred from association with any NASD member in any capacity. The NAC imposed the sanction following appeal of an OHO decision. The sanction was based on findings that Sturm failed to respond to NASD requests for documents.

Sturm has appealed this action to the SEC. Sturm's bar became effective March 21, 2002. (NASD Case #CAF000033)

**Walter John Taylor (CRD #1429146, Registered Representative, Syracuse, New York)** submitted a Letter of Acceptance, Waiver, and Consent in which he was barred from association with any NASD member in any capacity. Without admitting or denying the allegations, Taylor consented to the described sanction and to the entry of findings that he withdrew \$14,591.94 from an account using a debit card, and converted those funds for his own use and benefit without proper authorization. (NASD Case #C11020021)

**Peter Brian Voldness (CRD #872727, Registered Principal, Bloomington, Minnesota)** submitted a Letter of Acceptance,

Waiver, and Consent in which he was fined \$2,500, jointly and severally, and suspended from association with any NASD member in any principal capacity for 10 business days. Without admitting or denying the allegations, Voldness consented to the described sanctions and to the entry of findings that, in connection with a private placement contingent offering, a member firm acting through Voldness failed to establish an independent escrow account into which customer funds would be deposited pending the achievement of the contingency.

Voldness' suspension began June 3, 2002, and concluded at the close of business June 14, 2002. (NASD Case #C04020012)

**Tamer Lutfi Youssef (CRD #2906790, Registered Representative, Placentia, California)** submitted a Letter of Acceptance, Waiver, and Consent in which he was suspended from association with any NASD member in any capacity for 90 days. In light of the financial status of Youssef, no monetary sanction has been imposed. Without admitting or denying the allegations, Youssef consented to the described sanction and to the entry of findings that he recommended purchase and sale transactions in various securities for the securities account of a public customer without having a reasonable basis to believe that the transactions were suitable for the customer in view of the size, frequency, and nature of the recommended transactions, and the facts disclosed by the customer regarding his financial situation, objectives, circumstances, and needs.

Youssef's suspension began June 3, 2002, and will conclude on August 31, 2002. (NASD Case #C02020021)

## Decisions Issued

The following decisions have been issued by the DBCC or the Office of Hearing Officers and has been appealed to or called for review by the NAC as of May 3, 2002. The findings and sanctions imposed in the decisions may be increased, decreased, modified, or reversed by the NAC. Initial decisions whose time for appeal has not yet expired will be reported in the next *Notices to Members*.

**James Stephen Davenport (CRD #1726592, Registered Representative, Glasgow, Kentucky)** was fined \$10,000, and suspended from association with any NASD member in any capacity for nine months. However, because he has not been working in the industry, the time away has been "credited" to him and thus his suspension has been served. Nonetheless, he is barred from opening a leveraged trading account with any firm with which he associates until he has paid the fine and repaid all of the customer loans in full. The fine must be paid before Davenport reassociates with any NASD member following the suspension or before requesting relief from any statutory disqualification. The sanctions were based on findings that Davenport made false representations to his member firm.

Davenport has appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #C05010017)

**Walsh Manning Securities, LLC (CRD #30826, New York, New York), Frank James Skelly, III (CRD #2160437, Registered Principal, Rockville Centre, New York), and Craig Howard Gross (CRD #2104270, Registered Principal, Kings Park, New York).** The firm and Skelly were each fined \$75,000 and ordered to pay \$226,882.40, plus interest, jointly and severally, in restitution to public customers. The firm was suspended from NASD membership and Skelly was suspended from association with any NASD member in any capacity for two years. Skelly and Gross were barred from association with any NASD member in any capacity. The sanctions were based on findings that the firm and Skelly charged public customers excessive and fraudulent markdowns, and that they failed to fairly price securities in relation to the prevailing market price. The findings also stated that Skelly and Gross failed to respond to NASD requests for information.

The respondents have appealed this decision to the NAC, and the sanctions are not in effect pending consideration of the appeal. (NASD Case #CAF000013)

## Complaints Filed

The following complaints were issued by NASD. Issuance of a disciplinary complaint represents the initiation of a formal proceeding by NASD in which findings as to the allegations in the complaint have not been made, and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are unadjudicated, you may wish to contact the respondents before drawing any conclusions regarding the allegations in the complaint.

**Adrian Everardo Balboa (CRD #2941162, Registered Representative, Coral Springs, Florida)** was named as a respondent in an NASD complaint alleging that he engaged in unauthorized transactions in the accounts of public customers. (NASD Case #C07020026)

**Robert Joseph Borson (CRD #2828890, Registered Representative, Walnut, California)** was named as a respondent in an NASD complaint alleging that he received a \$2,000 check from a public customer for the purpose of investing the proceeds; failed to apply the funds as instructed by the customer; and without the customer's authorization or consent, altered the payee line of the check to read "Robert Borson" instead of the firm name, and inserted the customer's initials to make it appear as though the customer had authorized the alteration. In addition, the complaint alleges that, without the customer's authorization or consent, Borson added the notation "given to Rob Borson" next to the customer's

notation "2001 Roth IRA Contribution" to make it appear as though Borson was the authorized payee on the customer check. The complaint also alleges that, after altering the customer check, Borson endorsed the check and deposited it into his personal checking account and held the funds for a period of time, without the customer's authorization or consent. (NASD Case #C02020022)

**William Gerard Brown (CRD #33153, Registered Representative, Staten Island, New York)** was named as a respondent in an NASD complaint alleging that, in connection with the purchase, sale, offer, and/or inducement to purchase securities in the accounts of public customers, Brown, directly or indirectly, by use of the means or instrumentalities of interstate commerce, the mails, or any facility of any national securities exchange, employed devices, schemes, or artifices to defraud; made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business which operated, or could operate, as a fraud or deceit, and induced the purchase or sale of securities by means of manipulative, deceptive, or other fraudulent devices or contrivances. The complaint also alleges that Brown purchased, or caused to be purchased, securities in the accounts of public customers without their prior knowledge, authorization, or consent. In addition, the complaint alleges that Brown failed to respond to NASD requests to appear for an on-the-record interview. (NASD Case #C10020041)

**David Richard Carey (CRD #2077949, Registered Principal, Oglesby, Illinois)** was named as a respondent in an NASD complaint alleging that he received \$5,700 from public customers to purchase shares of a fund for custodial securities accounts, failed to follow the customers' instructions, and used the funds for some purpose other than the benefit of the custodial customers. The complaint further alleges that Carey failed to fully respond to NASD requests for documents and information. (NASD Case #C8A020024)

**Ted Frederick Cook (CRD #852995, Registered Representative, Buffalo, New York)** was named as a respondent in an NASD complaint alleging that he received a \$7,000 check from a public customer for the purchase of a long-term care insurance policy, instructed the customer to make the check payable to him, failed to purchase the policy or apply the funds for the benefit of the customer, and instead used the funds for his own benefit. The complaint also alleges that Cook failed to respond to NASD requests for information. (NASD Case #C8B020010)

**Edward Allan Fennell (CRD #3126627, Registered Representative, Dublin, Ohio)** was named as a respondent in an NASD complaint alleging that he received \$3,901.53 from a public customer representing proceeds from a 401(k) rollover intended for the purchase of a variable annuity, failed to apply

the funds to the purchase of a variable annuity or in any other manner for the benefit of the customer, and instead used the funds for his own benefit. The complaint also alleges that Fennell received \$1,000 from a public customer for the purchase of a mutual fund, failed to apply the funds as directed, and instead used the funds for his own benefit. In addition, the complaint alleges that Fennell failed to respond to NASD requests for information and documents. (NASD Case #C8B020009)

**Kevin Thomas Ferguson (CRD #4143905, Registered Representative, Boston, Massachusetts)** was named as a respondent in an NASD complaint alleging that he issued annuitant checks totaling \$26,040 without the consent or authorization of the customer and converted the funds to his own use and benefit. The complaint also alleges that Ferguson failed to respond to NASD requests for information. (NASD Case #C11020017)

**First Liberty Investment Group, Inc. (CRD #3536, Philadelphia, Pennsylvania) and James William O'Connor (CRD #1655937, Registered Principal, Aston, Pennsylvania)** were named as respondents in an NASD complaint alleging that they failed to establish, maintain, and enforce written supervisory procedures reasonably designed to detect and prevent violations involving sales practices, registration, penny stocks, customer complaint reports, trading and market making rules, and annual inspections of Offices of Supervisory Jurisdiction and branch offices. The complaint also alleges that the firm, acting through O'Connor, contravened the penny stock transaction and disclosure rules by failing to obtain a signed and dated written statement from each purchaser relating to the purchaser's financial condition and investment experience, and failed to obtain a signed and dated written statement from each purchaser acknowledging receipt of the required penny stock transaction risk document. In addition, the complaint alleges that the firm and O'Connor failed to disclose to the purchasers the inside and bid quotations and the number of shares to which the bid and offer quotations applied, the aggregate amount of compensation received by the firm with each transaction, and the compensation received by the associated persons with each transaction. Furthermore, the complaint alleges the firm, acting through O'Connor, failed to report to NASD statistical and summary information relating to customer complaints received by the firm and failed to make, keep current, and/or maintain books and records. (NASD Case #C9A020019)

**Howard Michael Johnson (CRD #1353976, Registered Representative, Philomath, Oregon)** was named as a respondent in an NASD complaint alleging that he affixed the signature of a public customer to Letters of Authorization purported to authorize his member firm to transfer funds from the customer's account to the account of another individual without the customer's knowledge or consent and submitted

them to his member firm. The complaint also alleges that the firm transferred \$153,500 from one customer's account to the account of another who then wrote checks drawn on the account to third parties designated by Johnson in amounts totaling at least \$134,610.62, constituting conversion by Johnson of \$134,610.62 of the customer's funds for his own use and benefit. In addition, the complaint alleges that Johnson failed to respond to NASD requests for information. (NASD Case #C3B020008)

**John Joseph Katsock, Jr. (CRD #2497641, Registered Principal, New York, New York)** was named as a respondent in an NASD complaint alleging that, in connection with the purchase, sale, or offer of securities, Katsock, by the use of any means or instrumentalities of interstate commerce or of the mails, employed devices to defraud these customers by making untrue statements of material fact or omitting to state material facts necessary in order to make the statements made, in light of the circumstances in which they were made, not misleading. The complaint alleges that Katsock failed to disclose to public customers that he had a self-interest with a securities issuer. In addition, the complaint alleges that Katsock exercised discretionary authority in the accounts of a public customer and purchased securities for the accounts without reasonable grounds for believing the recommendations and resulting transactions were suitable for the customer based on her financial situation, investment objectives, and needs. Furthermore, the complaint alleges that Katsock failed to execute the instructions of public customers and made improper price predictions to public customers. Moreover, the complaint alleges that Katsock exercised discretion in the accounts of public customers without having obtained prior written authorization from the customers and prior written acceptance of the accounts as discretionary by his member firm. The complaint also alleges that Katsock failed to respond to NASD requests to appear for an on-the-record interview, and interfered with an NASD investigation of his sales practices by offering to pay a public customer for a convertible note that the customer had purchased if he did not cooperate with the NASD. (NASD Case #C9A020018)

**Jeffrey Lavert Montgomery (CRD #2701770, Registered Representative, Milwaukee, Wisconsin)** was named as a respondent in an NASD complaint alleging that he received \$9,310.22 from public customers as insurance premium payments, failed to apply the funds towards insurance premiums as the customers directed, and instead, without the customers' knowledge or authorization, used the funds for his own benefit or for some purpose other than the customers' benefit. The complaint also alleges that Montgomery failed to respond to NASD requests for information. (NASD Case #C8A020023)

**Michael Christopher Palmieri (CRD #2744741, Registered Representative, Staten Island, New York)** was named as a

respondent in an NASD complaint alleging that, in connection with the purchase, sale, or offer of securities, Palmieri, directly or indirectly, by use of the means or instrumentalities of interstate commerce, the mails, or any facility of any national securities exchange, employed devices, schemes, or artifices to defraud; made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or engaged in acts, practices, or courses of business which operated, or could operate, as a fraud or deceit, and induced the purchase of securities by means of manipulative, deceptive, or other fraudulent devices or contrivances. The complaint also alleges that Palmieri misrepresented and omitted facts that were designed to induce his customers to purchase highly speculative securities. In addition, the complaint alleges that Palmieri made baseless price predictions in connection with an offer to sell securities without having a reasonable basis. Furthermore, the complaint alleges that Palmieri engaged in transactions in the accounts of public customers without the knowledge, authorization, or consent of the customers. (NASD Case #C10020045)

**Patterson Travis, Inc. (CRD #16540, Englewood, Colorado), David Thomas Travis (CRD #448950, Registered Principal, Aurora, Colorado), Eric Harold Dieffenbach (CRD #1833420, Registered Representative, Littleton, Colorado), and Michael Antoine Rooms (CRD #2187994, Registered Representative, Littleton, Colorado)** were named as respondents in an NASD complaint alleging that the firm, acting through Travis, Dieffenbach, and Rooms, contravened SEC Rules 15g-2, 15g-3, 15g-5, and 15g-9, in that prior to effecting transactions in a penny stock for the accounts of public customers, the firm did not furnish to customers a penny stock transactions risk disclosure statement, and did not obtain from the customers a manually signed and dated written acknowledgement of receipt of the document. The complaint also alleges that the firm, acting through Travis, Dieffenbach, and Rooms, prior to effecting transactions in a penny stock for customers accounts or in writing at the time of confirmation, did not disclose to customers the inside bid quotation and the inside offer quotation for the penny stock, and did not disclose to customers the aggregate amount of cash compensation to its associated persons in connection with these transactions.

In addition, the complaint alleges that the firm did not obtain a written agreement setting forth the identity and quantity of a penny stock to be purchased and a signed and dated written statement from each purchaser relating to the purchaser's financial condition, investment experience, and investment objectives. The complaint alleges that the firm, acting by and through Travis, failed to supervise properly the sale of a penny stock by Dieffenbach and Rooms to achieve compliance with applicable securities laws, regulations, and NASD rules. The complaint also alleges that the respondents attempted to conceal their violation of the penny stock rules and

attempted to obstruct an NASD investigation. The complaint further alleges that respondents failed to comply with the terms of an Order of Settlement that involved, among other things, violations of the Penny Stock Rules. (NASD Case #C06020003)

**Peter Faris Peck Jr., (CRD #1019018, Registered Representative, Heyworth, Illinois)** was named as a respondent in an NASD complaint alleging that he engaged in outside business activities and participated in private securities transactions without providing prompt and prior written notice to, and obtaining written authorization from, his member firm. The complaint also alleges that Peck, by the use of instrumentalities of interstate commerce or the mails, intentionally or recklessly employed devices to defraud customers, engaged in a course of business that operated as a fraud or deceit upon customers, and converted \$68,100 of investors' funds for his own use and benefit. In addition, the complaint alleges that Peck agreed to purchase shares of stocks on behalf of public customers and, without prior notice to his member firm, accepted \$14,349 in funds from customers and used such funds to purchase shares of stock for his own personal securities account maintained at his member firm. The complaint alleges that Peck converted the securities for his own use and benefit by failing to deliver to the customers the shares that he purchased on their behalf, thereby depriving them of the use and benefit of their securities, funds, or assets. Furthermore, the complaint alleges that Peck failed to respond to NASD requests for information. (NASD Case #C04020010)

**Christopher George Romani (CRD #2590681, Registered Representative, Savage, Minnesota)** was named as a respondent in an NASD complaint alleging that he converted for his own use and benefit public customer funds totaling \$38,140.97, in that on several occasions, without the knowledge or consent of his customers, he obtained loans against the whole and variable appreciable life insurance policies held by customers, and used the funds obtained from these loans for his own personal use. The complaint alleges that Romani obtained loans from the insurance policies held by customers and applied the funds as a credit to another customer's policy. The complaint also alleges that Romani failed to respond to NASD requests for information. (NASD Case #C04020013)

**Rooney Arun Sahai (CRD #1551326, Registered Representative, Ridgewood, New Jersey)** was named as a respondent in an NASD complaint alleging that he forged, or caused to be forged, the signatures of public customers on mutual fund applications, a variable annuity application, an IRS Form W-9, and a handwritten memorandum authorizing an investment without the customers' knowledge or consent. The complaint also alleges that Sahai purchased a variable annuity on behalf of a public customer without the customer's prior knowledge, authorization, or consent. Additionally, the complaint alleges that Sahai engaged in outside business



activities without prompt written notification to his member firm, and that he failed to respond to NASD requests for information. (NASD Case #C9B020032)

**Dave Hung Trinh (CRD #2916910, Registered Representative, Renton, Washington)** was named as a respondent in an NASD complaint alleging that he affixed the signature of a public customer to an account application to open a securities account at a broker/dealer other than his member firm without the customer's knowledge or consent, and provided his telephone number and e-mail address, falsely representing that they were the customer's. The complaint also alleges that Trinh affixed the signature of a public customer to a margin agreement and a memorandum at a broker/dealer that changed the customer's address to his own, without the customer's knowledge or consent. In addition, the complaint alleges that Trinh received a \$24,916.50 check from a public customer to purchase shares of stock, deposited the funds in a money market account, failed to purchase the stock, affixed the customer's signature to a \$24,000 check drawn on the account without the customer's knowledge or consent, and converted the \$24,000 to his own use and benefit. The complaint further alleges that Trinh received a \$423 check payable to the employer of a public customer to refund an excess contribution to the customer's qualified variable annuity contract, endorsed the check, and deposited the check in his own checking account thereby converting \$423 to his own use and benefit. Moreover, the complaint alleges that Trinh submitted false responses to an NASD request for information, and delivered a false document to the NASD to impede an NASD investigation and to conceal his conversion. (NASD Case #C3B020009)

### **Firms Suspended for Failure to Supply Financial Information**

The following firms were suspended from membership in NASD for failure to comply with formal written requests to submit financial information to NASD. The action was based on the provisions of NASD Rule 8210 and Article VII, Section 2 of the NASD By-Laws. The date the suspension commenced is listed after the entry. If the firm has complied with the requests for information, the listing also includes the date the suspension concluded.

**Adolph Komorsky Investments**  
Tarrytown, New York  
(April 9, 2002 – April 29, 2002)

**Amervest Capital, Inc.**  
Monterey Park, California  
(April 9, 2002 – April 22, 2002)

**BNB Capital, Inc.**  
Houston, Texas  
(April 24, 2002)

**C&N Trading, L.L.C.**  
Miami, Florida  
(April 9, 2002)

**Cybervest Securities, Inc.**  
Brooklyn, New York  
(April 9, 2002)

**Ebond Securities, Inc.**  
Brooklyn, New York  
(May 7, 2002)

**Elephant Express LLC**  
New York, New York  
(April 9, 2002)

**Elephantx Online Securities, LLC**  
New York, New York  
(April 9, 2002)

**Fieldstone Services Corp.**  
New York, New York  
(May 6, 2002)

**First Geneva Securities**  
San Diego, California  
(April 9, 2002 – April 26, 2002)

**GFN.Com Securities, Inc.**  
New York, New York  
(April 9, 2002)

**Incync Capital Corporation**  
New York, New York  
(April 9, 2002)

**Legacy Trading Co., LLC**  
Edmond, Oklahoma  
(April 15, 2002 – April 17, 2002)

**One Financial Center Brokerage, Inc.**  
Chicago, Illinois  
(April 9, 2002)

**Rushmore Securities Corporation**  
Dallas, Texas  
(April 15, 2002 – April 16, 2002)

**Whitestone Capital Markets, L.P.**  
New York, New York  
(May 7, 2002)

**Individuals Barred Pursuant to NASD Rule 9544 for Failure to Provide Information Requested Under NASD Rule 8210. (The date the bar became effective is listed after the entry.)**

Baylor, Ky Nigel  
Columbus, Ohio  
(April 11, 2002)

Berlin, Gregg Arnold  
Lake Almanor, California  
(April 22, 2002)

Cole, Jr., John M.  
Stafford, Virginia  
(April 12, 2002)

Deane, Robert  
Middleburg, New York  
(April 4, 2002)

Depergola, Joseph  
Middle Village, New York  
(April 23, 2002)

Ferguson, Phillip L.  
Fowlerton, Indiana  
(April 10, 2002)

Fox, Gary A.,  
Clendenin, West Virginia  
(April 15, 2002)  
Fox has appealed this action to the SEC and the bar has not been stayed pending consideration of the appeal. (NASD Case #8210-9A010006)

Juravel, Samuel  
Savannah, Georgia  
(April 30, 2002)

Kelley, Michael Allen  
Seattle, Washington  
(April 22, 2002)

Staltare, Steven C.  
Boca Raton, Florida  
(April 29, 2002)

Thau, Jonathan T.  
Sunrise, Florida  
(May 2, 2002)

**Individuals Suspended Pursuant to NASD Rule 9541(b) for Failure to Provide Information Requested Under NASD Rule 8210. (The date the suspension began is listed after the entry.)**

Albers, Joseph R.  
Gig Harbor, Washington  
(April 19, 2002)

Anonuevo, Noel Mendoza  
Hercules, California  
(April 19, 2002)

Boockmeier, James T  
Marble Falls, Texas  
(May 2, 2002)

Fishbein, Michael B.  
Bronx, New York  
(April 15, 2002)

Frankovich, Jason  
Staten Island, New York  
(May 2, 2002)

Noor, Danoo  
Rego Park, New York  
(April 29, 2002)

Paulsen, Curtis C.  
Ballwin, Missouri  
(April 12, 2002)

Sweidan, Kamil H.  
Naples, Florida  
(April 16, 2002)

**NASD Regulation Fines Hornblower & Weeks, Inc. \$100,000 and Suspends Firm From All Research Activities for 6 Months; Firm President Also Fined and Suspended**

As part of its ongoing focus on research analyst activities, NASD Regulation reached a settlement with Hornblower & Weeks, Inc. of New York, NY, and its President, John Rooney. NASD Regulation found that the firm and Rooney issued a research report recommending the common stock of MyTurn.com as a "strong buy" when, in fact, the report contained baseless projections and misleading and exaggerated statements, and that it omitted important facts in violation of NASD antifraud and advertising rules, as well as the antifraud provisions of the federal securities laws.

As part of its settlement with NASD, Hornblower was censured and fined \$100,000. Hornblower also agreed to suspend its research activities for six months and, before resuming research reports, to retain an outside consultant to review and make

recommendations concerning the firm's procedures relating to research reports.

Rooney was fined \$85,000, along with the firm, and was suspended from associating with any NASD member firm for three months in all capacities, and for an additional four months in a supervisory or principal capacity. Rooney is required to requalify through examination as a principal before again serving in that capacity.

"Investors are entitled to research that is balanced, complete and not tainted by conflicts of interest," said Mary L. Schapiro, President, NASD Regulation, Inc. "While our new research analyst rules will greatly strengthen our hand in bringing cases in this important area, today's enforcement action again demonstrates that we will aggressively use our existing rules to discipline both firms and individuals that issue research that contains misleading or exaggerated statements."

The research report, issued on Aug. 30, 2000, recommended MyTurn.com as a "strong buy" and set a target price of the stock at \$55 per share. At the time of the issuance of the report, the common stock of MyTurn was trading on the Nasdaq National Market for approximately \$9 per share. In November, the firm issued a press release reiterating the buy recommendation and the \$55 target price.

MyTurn was a provider of Internet-related computing products and services. Its only product, the Global PC, was a low-cost personal computer system that was targeted toward the first-time user market. In Jan. 2001, several months after the research report was issued, MYTN filed for bankruptcy protection under Chapter 11.

Approximately eleven months before the research report was issued, Hornblower received 400,000 shares of restricted MyTurn.com stock for its role in conducting two private placements for the company. 150,000 of those shares were subsequently provided to John Rooney; 80,000 to another officer of Hornblower; 70,000 to members of the officer's family; and Hornblower retained 70,500 of the shares. Hornblower, Rooney and the officer sold these shares several months following the release of the research report; however, they did not profit from it. The price of MyTurn.com shares rose slightly the day after the issuance of the research report and steadily declined thereafter.

NASD Regulation found that the research report contained misleading, exaggerated, and baseless statements about MyTurn.com and its business prospects, including the following:

- + "We project revenues to reach \$17.6 million for the combined third and fourth-quarters of 2000. As the product becomes increasingly available on a global basis, we expect revenues to significantly increase to \$265 million for 2001."

- + "It is our belief that MyTurn.com's first-mover advantages will quickly penetrate a significant portion of this market and build brand recognition."

- + "MyTurn.com is quickly expanding as a household name as an Internet service provider."

- + "A 12-month price target of \$55..."

Despite the research report's revenue projection of \$265 million for 2001, the company reported revenue for the year ended Dec. 31, 1999 of only slightly more than \$233,000, and for the two quarters preceding the issuance of the research report, combined revenue of under \$85,000. MyTurn also reported a net loss for 1999 of over \$13 million and losses of over \$65 million and \$45 million for the two quarters preceding issuance of the report.

Significantly, MyTurn's public filings, contrary to the research report, emphasized the company's need to secure additional funding and stated that if the company was unable to secure additional financing it might be unable to continue its current business plan. The company disclosed that its Chairman of the Board was personally funding MyTurn's working capital deficits of up to \$500,000 per month. NASD Regulation found that none of these important facts was disclosed in the research report.

NASD Regulation also found that Hornblower failed to establish, maintain, or enforce supervisory procedures or systems reasonably designed to ensure that research reports issued by the firm complied with NASD rules and federal securities laws and regulations.

In the past, NASD Regulation has successfully used its existing rules to investigate and discipline firms and analysts whose behavior violates NASD rules and the federal securities laws. In addition to a number of other pending investigations involving research analysts, NASD is conducting a joint inquiry with the Securities and Exchange Commission, the New York Stock Exchange, and state securities regulators into market practices concerning research analysts and potential conflicts that can arise from the relationship between research and investment banking.

As a part of the settlement with NASD Regulation, Hornblower and Rooney neither admitted nor denied NASD Regulation's findings. NASD Regulation's Department of Market Regulation referred this matter to the Enforcement Department.